



# MAYOR AND COUNCIL AGENDA

NO. // DEPT.: Community Planning and Development Services DATE PREPARED: 5/16/05  
STAFF CONTACT: Deane Mellander, Acting Chief of Planning FOR MEETING OF: 6/6/05

**SUBJECT:** Discussion and Instruction to Staff--Concept Plan Amendment CPD1999-0004B, Fallsgrove: To allow a hotel of 125,000 to 150,000 square feet in lieu of a corresponding amount of office; permit office development in lieu of multi-family development on a residual multi-family residential parcel; allow a child care facility as an approved use in Fallsgrove; transfer unused retail space from the Village Center to one of the neighboring parcels.

**RECOMMENDATION:** Discuss the public hearing testimony and instruct staff on further actions. The Planning Commission recommended approval of the proposed amendment. The staff recommended approval of the amendment to the Planning Commission. As part of the record, a signed agreement between the applicant and most of the residents of the neighboring condos was submitted.

**DISCUSSION:** The amendment proposes several changes to the approved concept plan for the Fallsgrove Comprehensive Planned Development. The first is to redesignate two sites in the Fallsgrove development as suitable for hotel or office use on either side of Blackwell Road fronting on Shady Grove Road. Only one of the parcels could be used for a hotel. The hotel would be between 125,000 and 150,000 square feet, replacing an equal amount of office/R&D space.

The second part of the request is to allow office use on a small parcel (approximately 1.4 acres) of land at the intersection of Wood Hill Road and West Montgomery Avenue. This parcel is currently designated for multi-family use, but the maximum allowable amount of multi-family in Fallsgrove has already been approved for construction.

The third part of the request is to include a child care facility, an institutional use, as an approved use within Fallsgrove. Currently, the Fallsgrove Concept Plan does not allow institutional uses, as defined in Section 25-643(5)a of the Code.

Finally, the applicant requests that they be allowed to locate approximately 20,000 square feet of retail that was not built with approved Village Center on one of the two aforementioned office parcels. This would be in the form of ground-floor retail space in the remaining office buildings, principally in the proposed building on Parcel B. The executed agreement between the condo associations and the applicant limits any one retail tenant to 3,000 square feet, and entrances have to front onto Shady Grove Road. No convenience stores are permitted.

As part of the consideration of this amendment, Fallsgrove has offered to abandon and relinquish the ability to develop 75 residential units of the remaining 119 units currently still available to build per the concept plan. Since all of the approved multi-family has been committed, any new units must be either one-family attached or detached. This would result in a new total of 1,486 units which is a reduction of the currently approved total of 1,530.

At the hearing on May 2, 2005, there was testimony both in support and in opposition to the proposed amendment. A summary of the testimony and subsequent submittals to the record is provided at Attachment 1 (circle pages 3 –25). The public hearing record closed on May 16, 2005.

**Boards and Commissions Review:** The Planning Commission considered this application at its meeting on April 13, 2005. The Commission voted 4-0 with 3 absent to recommend approval. Its recommendation is shown on Attachment 2.

**Next Steps:** Following D&I, the Mayor and Council will instruct staff on preparation of a resolution regarding this application.

**PREPARED BY:**

  
Deane Mellander, Acting Chief of Planning

**APPROVED BY:**

  
Arthur D. Chambers, AICP, Director, CPDS

6/1/05  
Date

**APPROVED BY:**

  
Scott Ullery, City Manager

6/02/05  
Date

**LIST OF ATTACHMENTS:**

1. Summary of public hearing testimony (circle pages 1-2).
2. Public Hearing exhibits and correspondence submitted to the record (circle pages 3-25).
3. Planning Commission recommendation (circle pages 26-27).
4. Staff report to the Planning Commission (circle pages 28-31).
5. Applicant's statement (circle pages 32-74).
6. Location map (circle page 75).

**SUMMARY OF TESTIMONY FOR PUBLIC HEARING**  
**HELD May 2, 2005**  
**CPD1999-0004A**  
**Fallsgrove Concept Plan Amendment**

**Speaker****Summary of Testimony**

Art Fusillo -- for the applicant	There will two connected facilities with a total of approximately 200 rooms--A Hilton Suites and a Garden Inn. The Garden Inn is a shorter stay suites facility. They are committed to the height, footprint, access points and parking as shown on the proposed plans. There will be separate detailed applications for the hotel and the 2 office buildings proposed. Jewish Social Services has expressed interest in the parcel at Wood Hill and Key West.
Art Goldberg, speaking for Jeffery Webber for Homes at Fallsgrove HOA	There are two issues remaining. There needs to be more convenient Ride-On bus service in the area, and the traffic problems at the entrance to the village center.
Nolan Sklute -- Fallsgrove Condo Residence 1	78 of the 97 unit owners now support the project -- 91%, with the signed agreement. They were originally opposed, but after many meetings and much input and negotiation with the Lerner group, support can now be given.
Louise Bittker	She is a resident of condo 4. She is very concerned about the security situation if the hotel is approved. Leave the office buildings in place.
Richard Zeidman -- President, Fallsgrove Condo Residence 3 and 4	He notes some inaccuracies in the cover letter from Holland and Knight. There are really 2 different hotels, with different clientele. The two small condo buildings do not support the proposed amendment. There are 15 hotels within 2 miles of this site. Is there a need for this one if there others aren't running at 100% occupancy? Queried the City Attorney about whether they met with the applicant prior to the April 13 meeting; did the Attorney express support for the application in the face of a threatened lawsuit?; did the Attorney advise the Planning Commission that they had overstepped their authority?. Mr. Zeidman believes that the office buildings will not be built. Also, offices if built do not operate 24/7, 365.
Stanley Scheiner	Recommends denial of the amendment. The hotel is incompatible with the condominium development. It is a false assumption that the office buildings are worse. They would not have bought in if they had known about the hotel. The Planning Commission originally recommended denial. There should not be a hotel next to residential.
Sid Verner	Under the agreement, there will be no open bar, and 24/7 security patrols at the hotel.
Thiel Sullivan -- President, Fallsgrove Condo Residence 2	The condo wanted to reach a win-win agreement with the applicant. There will be a 75' tall hotel instead of a 125' tall office building. There will be much more surface parking instead of a tall parking garage. The buildings will be further away, there will be more landscaping, and traffic will be less.
Leonard Shapiro	Asked that those in the audience that support the application please stand. Many did. He believes that there is plenty of demand for extended stay hotels in this area.
Michael Messitte	They got most all of the accommodations that they wanted from the applicant. There is overwhelming support for the project from condos 1 and 2.
Elayne Scheiner	She lives in condo 2. She opposes the application for the same reasons as her husband, Stanley (above). She notes the comments made by the Planning Commission at its initial review of the application in December of 2004.

Larry Robinson – Secretary, Falls Grove Condo 1 Residence	The proposal will have the least impact on the community, per the Planning Commission's recommendation. There will be no open bars. Fully supports the Agreement.
Joan Oday	Lives in Building 2. She feels more secure with the proposed amendment than with offices on the site, especially the garages. The applicant will fence the condo areas. It will be much better than the construction trailers that are on the site now.
Ken Richter	Don't allow the hotel. Keep the area as open space instead. Don't add any more development. There needs to be a traffic study done before taking any further action on the amendment.
Dervy Satman	He notes that one of the illustrations in the applicant's submittal shows a bar.
Art Goldberg – President of the Falls Grove Civic Association	This process began last August. The applicant did not do his homework with the community initially. No one other than the condo residents had any issue with the hotel proposal.

Patricia A. Harris  
301 215 6613  
patricia.harris@hklaw.com

May 16, 2005

The Honorable Larry Giammo and  
Members of the City Council  
City Hall  
City of Rockville  
111 Maryland Avenue  
Rockville, Maryland 20850

Re: Fallsgrove – Concept Plan Amendment

Dear Mayor Giammo and Members of the City Council:

On behalf of Lerner Enterprises (“Applicant”), we wanted to take this opportunity to respond to two issues raised by Councilwoman Hoffman and Mayor Giammo at the close of the May 2<sup>nd</sup> hearing on the proposed amendment to the Fallsgrove Concept Plan. These issues pertain to the proposed use of the Woodhill Road parcel and the desire for the Fallsgrove community to accommodate a child care center.

#### Woodhill Road Parcel

Councilwoman Hoffman inquired as to whether the Jewish Social Services, with whom Lerner is presently negotiating, was the appropriate tenant for the Woodhill Road building, given the City's desire for more research and development type uses. We are pleased to indicate that this issue was focused on intensely during the original Concept Plan approval process and to that end, the Fallsgrove Concept Plan Resolution has a built-in mechanism to ensure that upon build out, a balance is struck between traditional office use and research and development use, as defined therein. More specifically, the Fallsgrove Concept Plan Resolution No. 1-00 approving Fallsgrove, provides for a total of 950,000 square feet of office use and R&D use within the community, of which a maximum of 425,000 square feet is permitted to be general office space. Therefore, we believe the issue raised by Councilwoman Hoffman has been satisfied by the original Concept Plan approval.

#### Child Care Center

The Applicant has asked, as part of its Concept Plan amendment, that a child care facility be approved as an allowable use within the community. They have done so as a direct result of the fact that without the Mayor and Council's approval, such a use is not permitted. At the present

time, the Applicant has not designated a child care agency or facility to operate within Falls Grove. As with other allowable uses, it hopes to avail itself of that opportunity in the future. Mayor Giammo and other members of the Council expressed strong interest in a child care center within the Falls Grove community at some point and your desire is duly noted. The Applicant has taken the first step toward this objective by proposing an amendment to the Concept Plan which would provide for a child care facility as a permitted use.

At this time however, it is difficult for the Applicant to know when that use will materialize. At one time several years ago, the Applicant had considered childcare use within Falls Grove, and in fact initiated the necessary approvals to accommodate such a use. For the record, as of this date, ten accredited child care centers have been established within one mile of Falls Grove. Thus, it appears to the Applicant that the immediate demand for child care in the area has significantly decreased. Perhaps the strongest indication that there is not an immediate need for a child care facility in this area is the property directly across Darnestown Road from Falls Grove, which has been approved for child care use for several years, yet has never gone forward. Nonetheless, the Applicant will continue to work toward a child care facility.

#### Summary

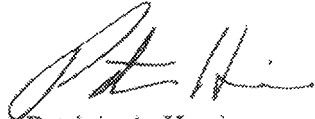
The proposed Concept Plan Amendment has strong support from the community.

The clear benefits of the Concept Plan Amendment are recognized by the vast majority of the Falls Grove residents, and in particular, by those residents living in the nearby condominiums, as was evidenced by their testimony at the public hearing and their supporting correspondence.

We appreciate your consideration of this important issue and respectfully request your approval of the proposed Concept Plan Amendment.

Sincerely yours,

HOLLAND & KNIGHT LLP

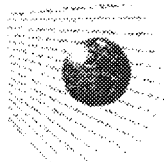


Patricia A. Harris

☒ City Clerk  
☒ City Manager

☐ Council Support Specialist  
☒ Other Art Chambers

Attachment 2  
RECEIVED  
CITY CLERK'S OFFICE



Brenda Bean/RKV  
04/15/2005 11:28 AM

To Nsklute@aol.com  
cc Mayor\_Council, Art Chambers/RKV, 2005 APR 15 AM 11: 41  
bcc  
Subject Re: Rockville Mayor/City Council Meeting, May 2,  
2005--Falls Grove Concept Plan

Dear Mr. Sklute,

Thank you very much for your follow up email explaining the documents you dropped off with this office earlier today. The documents you provided, along with your email, will be reviewed by the Mayor and Council and marked as an exhibit for incorporation into the official file.

We appreciate your interest in this project and look forward to seeing you at the public hearing on May 2, 2005 at 7:00 pm.

Brenda F. Bean  
Deputy City Clerk  
City of Rockville  
111 Maryland Avenue  
Rockville, Maryland 20850  
240-314-8281  
email: bbean@rockvillemd.gov  
fax: 240-314-8289

Nsklute@aol.com



Nsklute@aol.com  
04/15/2005 11:25 AM

To bbean@rockvillemd.gov  
cc  
Subject Rockville Mayor/City Council Meeting, May 2,  
2005--Falls Grove Concept Plan

Exhibit # 1  
Subject: Falls Grove CPD1999-  
0004  
Public Hearing Date: 5/2/05

Dear Ms. Bean

This morning, April 15, 2005, I furnished the Office of the Rockville City Clerk six (6) copies of an agreement dated 13 April 2005, that is directly related to the Proposed Amendment to the Falls Grove Concept Plan to be considered at the Mayor /City Council meeting on May 2, 2005. I respectfully request that this document be made an exhibit for the meeting, and that it be included in the record. The Agreement consists of 13 pages and Exhibits A through F.

Parties to the agreement are the Developer/Applicant and the two associations representing 97 of the 119 condominiums at the Condominium Residences of Falls Grove. The agreement was discussed, in part, during the April 13, 2005, meeting of the Rockville Planning Commission, when the Proposed Amendment to the Falls Grove Concept Plan was addressed.



Brenda Bean/RKV  
05/09/2005 09:01 AM

To "louise bittker" <lbittker@comcast.net>  
cc mayorcouncil, Art Chambers/RKV@RKV, Deane  
Mellander/RKV@RKV  
bcc  
Subject Re: Letter to Mayor Giammo

Dear Ms. Bittker:

Thank you for your email regarding the amendment to the Falls Grove Comprehensive Planned development. Your comments, which have been seen by the Mayor and Council, as well as other appropriate staff, will be considered and incorporated into the official record in this matter. The Mayor and Council appreciate the comments they receive from citizens as they deliberate this, and other important matters.

This item will come back before the Mayor and Council several more times before final action which will likely occur by the end of June. So that you can track this matter, I would be happy to add your name to our Mayor & Council Agenda listserv group which would allow you to receive the agenda via email three or four days before each meeting. If you are interested in this service, please let me know.

Thanks again for taking the time to write. If you would like to submit anything further before the record closes on May 16th, please feel free to do so.

Brenda F. Bean  
Deputy City Clerk  
City of Rockville  
111 Maryland Avenue  
Rockville, Maryland 20850  
240-314-8281  
email: bbean@rockvillemd.gov  
fax: 240-314-8289

"louise bittker" <lbittker@comcast.net>



"louise bittker"  
<lbittker@comcast.net>  
05/07/2005 04:31 PM

To <mayorcouncil@rockvillemd.gov>  
cc  
Subject Letter to Mayor Giammo

Dear Mayor Giammo:

This letter is to inform you that I am firmly against the construction of TWO one hundred room hotels directly across from my Falls Grove condominium. This is total over and unnecessary development. No one benefits except Lerner Developers and Falls Grove Associates. Rockville and Falls Grove do not need TWO eight story buildings with two hundred rooms. We are better served with one twelve story building, if necessary, even though we don't want that. It would be less bulk staring us in our faces and less every day problems.

We asked Lerner Associates for underground parking to avoid the necessity of their threatened massive parking structures. They totally refused. Their "negotiation" was to provide us with the TWO eight story



towers instead.

Research and Development is not on their agenda. Neither is Day Care. They have neither any plans nor any interest in either.

We do not want to be a gated community. We are not physically set up for it. We can barely get our cars in as it is now. Gates would make it impossible for emergency or service vehicles to easily and rapidly enter our community.

Traffic and parking are serious issues for us. The proposed hotels with their entrances and exits on Blackwell will absolutely destroy our security and create multiple problems for us.

Please vote against construction of these hotels. There are many roads to Mecca. Let's find one that works for all of the citizens of Falls Grove and Rockville - not just for Lerner Developers.

Thank you.

Louise Bittker  
9407 Blackwell Road Unit #401  
Rockville, MD 20850  
301-738-8786



Brenda Bean/RKV  
05/11/2005 11:56 AM

To "Jennifer Lee" <jlee@Pentagontitle.com>  
cc mayorcouncil@rockvillemd.gov, Art Chambers/RKV@RKV,  
Deane Mellander/RKV@RKV  
bcc  
Subject Re: CPD 1999-0004A Falls Grove

Dear Ms. Lee,

Thank you for your email regarding the amendment to the Falls Grove Comprehensive Planned development. Your comments, which have been seen by the Mayor and Council, as well as other appropriate staff, will be considered and incorporated into the official record in this matter. The Mayor and Council appreciate the comments they receive from citizens as they deliberate this, and other important matters.

The public hearing on this application was held May 2, 2005 at 7:00 pm, and it will come back before the Mayor and Council several more times before final action which will like occur by the end of June. So that you can track this matter, I would be happy to add your name to our Mayor & Council Agenda listserv group which would allow you to receive the agenda via email three or four days before each meeting. If you are interested in this service, lease let me know.

Thanks again for taking the time to write. If you would like to submit anything further before the record closes on May 16, 2005 at 5:00 pm, please feel free to do so.

Brenda F. Bean  
Deputy City Clerk  
City of Rockville  
111 Maryland Avenue  
Rockville, Maryland 20850  
240-314-8281  
email: bbean@rockvillemd.gov  
fax: 240-314-8289

"Jennifer Lee" <jlee@Pentagontitle.com>



"Jennifer Lee"  
<jlee@Pentagontitle.com>  
05/11/2005 11:20 AM

To <mayorcouncil@rockvillemd.gov>  
cc  
Subject CPD 1999-0004A Falls Grove

My name is Jennifer Lee and I reside on 9407 Blackwell Road Unit 201 in the Falls Grove Community. The reason for my email is the amendment to the original proposal. My concern is not the view, or the lighting, or many of the other concerns that my fellow residents were concerned about. My main concern is the security for myself and my family. Two hotels being built across the street (Blackwell Road and Woodhill Road) from where I live elevates the likelihood that someone who is not a resident come onto my/our property and trespass. There are many scenarios that can be thought up but mainly the hotels are not high end, nor are they extended stay, will bring in people that are not welcome to roam our neighborhood.

Many of the residents on the other side of our condominiums are renters. They are not living at the property as their home. 9405 and 9407 Balckwell Road consist of residents that consider their condominium a PERMANENT primary resident. The renters were FOR the building of the hotels on Blackwell Road and Woodhill Road. They worked out an agreement with the builder. Although ugly to say those residents are not directly affected by the hotels so therefore they should not have a vote that is weighed heavier than our opinion. Our concerns should be addressed prior to theirs as we are the ones who will have to live with the consequences.

I propose that the location of the hotels be moved to the plot of land on West Montgomery Road and Falls Grove Drive. This move will alleviate traffic, parking, lighting, etc. for our residents and most importantly security. This change will also make the residents who voted FOR the hotels have direct use of their facilities. As our residents who were against the hotels did not sign the agreement for the use of the hotels facilities. The land in front of us can be used for the tennis courts and the community recreation. Originally the tennis courts were to be built on West Montgomery and Falls Grove but if these two were switched than it would address all of our concerns. Please consider this change as it will greatly affect all of the residents homes.

Sincerely, Jennifer

Lee



Brenda Bean/RKV  
05/06/2005 02:43 PM

To "Alan Sheff" <asheff@drfirst.com>  
cc mayorcouncil@rockvillemd.gov, Art Chambers/RKV@RKV,  
Deane Mellander/RKV@RKV  
bcc  
Subject Re: Falls Grove development

Dear Dr. Sheff,

Thank you for your email regarding the amendment to the Falls Grove Comprehensive Planned Development. Your comments, which have been seen by the Mayor and Council, as well as other appropriate staff, will be considered and incorporated into the official record in this matter. After the record closes on May 16th, the matter will come back before the Mayor and Council for discussion and instruction, then introduction of resolution, with final action likely to occur at the Mayor and Council meeting of June 20th. So that you can track this matter, I am happy to add your email address to our Mayor & Council Agenda subscription list which would allow you to receive the agenda via email three or four days before the meeting. If you are interested in this service, please let me know.

In the meantime, thanks very much for your interest in the Falls Grove Development. The Mayor and Council appreciate the comments they receive from citizens as they deliberate this, and other important matters. If you would like to submit anything further before the record closes on May 16th, please feel free to do so.

Brenda F. Bean  
Deputy City Clerk  
City of Rockville  
111 Maryland Avenue  
Rockville, Maryland 20850  
240-314-8281  
email: bbean@rockvillemd.gov  
fax: 240-314-8289

"Alan Sheff" <asheff@drfirst.com>



"Alan Sheff"  
<asheff@drfirst.com>  
05/06/2005 12:05 PM

To <mayorcouncil@rockvillemd.gov>  
cc  
Subject Falls Grove development

Mr. Mayor,

I write to oppose the Lerner plan for development of the remaining parcel at Falls Grove on Shady Grove Road. I am a member of the Homes At Falls Grove board of directors which represents Pulte single family homeowners. Although this project is not immediately adjacent to my home I believe proceeding with construction as proposed by Lerner would have a negative impact on the community as a whole.

First, it has not been shown that there is a need for two hotels at this site.  
Second, the impact of increased vehicular traffic on the community has not been sufficiently evaluated.  
Third, the relationship between this property and the adjacent condominiums has not been specified – barrier fencing, landscaping, parking.

I appreciate your attention to this matter.  
Respectfully,

**Alan R. Sheff, M.D.**  
*MDVIP affiliated physician*

**President, Potomac Physician Associates**  
10215 Fernwood Rd., Suite 100  
Bethesda, MD 20817

tel: (301) 493-9607  
fax: (301) 493-5532

asheff@drfirst.com

*Add me to your address book...*

*Want a signature like this?*



Brenda Bean/RKV  
05/09/2005 08:51 AM

To MDSILAS@aol.com  
cc mayorcouncil, Art Chambers/RKV@RKV, Deane  
Mellander/RKV@RKV  
bcc  
Subject Re: Citizen Input to Falls Grove Associates' Request to  
Amend CPD1999-0004A

Dear Mr. and Mrs. Silas,

Thank you for your email regarding the amendment to the Falls Grove Comprehensive Planned development. Your comments, which have been seen by the Mayor and Council, as well as other appropriate staff, will be considered and incorporated into the official record in this matter. The Mayor and Council appreciate the comments they receive from citizens as they deliberate this, and other important matters.

This item will come back before the Mayor and Council several more times before final action which will like occur by the end of June. So that you can track this matter, I would be happy to add your name to our Mayor & Council Agenda listserv group which would allow you to receive the agenda via email three or four days before each meeting. If you are interested in this service, please let me know.

Thanks again for taking the time to write. If you would like to submit anything further before the record closes on May 16th, please feel free to do so.

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fax: 240-314-8289

MDSILAS@aol.com



MDSILAS@aol.com  
05/07/2005 01:55 PM

To mayorcouncil@rockvillemd.gov  
cc  
Subject Citizen Input to Falls Grove Associates' Request to Amend  
CPD1999-0004A

Please review the attachment as part of the consideration of the Application of Falls Grove Associates to Amend its Comprehensive Planned Development (CPD) Application – CPD1999-0004A, for which a hearing was held on Monday, May 2, 2005.

Thank you,

Richard & Audrey Silas  
9407 Blackwell Road, #302  
Rockville, MD 20850

May 7, 2005

**E-Mail to: Mayor & Council of Rockville, MD**

RE: Application of Falls Grove Associates to Amend its Comprehensive Planned Development (CPD) Application – CPD1999-0004A

Dear Mayor Giammo and Members of the City Council:

Due to another commitment we were unable to attend the hearing on May 2, 2005, wherein you and your colleagues heard the request of Falls Grove Associates to amend its CPD by substituting a six-story 200 Room Hotel (two buildings comprised of a business hotel and an extended stay hotel) on the left side of Blackwell Road where it intersects with Shady Grove Road and Blackwell Road and a five-story hotel and garage on the right side of Blackwell Road where it intersects with Shady Grove Road.

My wife and I are residents of 9407 Blackwell Road, #302, one of the two small condominium buildings that comprise Condominium Residences III & IV of Falls Grove, Inc. We reside in one of the two buildings that directly face the proposed hotel as well as the office building.

I was advised that the record would remain open for additional comments until May 16, 2005; thus, we are taking the opportunity to have our voices heard. The purpose of our e-mail is threefold as follows:

**First, we wish to advise you that we also oppose the building of a hotel for the numerous reasons mentioned during the hearing on May 2, 2005.** You should know that 100% of our Board of Directors and 90% of our unit owners that we were able to contact were opposed to the hotel. Unfortunately, our limited numbers (22 unit owners) are dwarfed by the two other larger condominium associations (97 unit owners) and do not have the numbers that can match those of the two larger buildings.

**Second, security and traffic continue to be issues of concern to us.** Louise Bittker, our upstairs neighbor provided you with a keen insight on the security issue. No one will be patrolling the grounds of the hotels at night. What they will and will not have regarding working security cameras and signage to indicate video surveillance is unknown to us at this time. Simply having a person at the front desk of the hotel, who likely cannot leave his/her post to address a concern and who would have little or no security training, is absolutely insufficient and will likely be too little too late.

**The third issue, that of traffic, will be an issue.** At the end of the hearing, you asked if there were other things the community asked for, but which did not get addressed by Falls Grove Associates, you wanted to be made aware of these items. One issue that although addressed by Falls Grove Associates in the MOU (Item #10 on page 6 of the MOU) was the egress to the proposed parking structure for the five-story office building. We wanted to emphasize its importance, as your approval will help reduce the traffic on Blackwell Road, an issue that also is of ongoing concern to all of our residents.

Art Fusillo advised us that he was supportive of such an egress between the two properties, but you have the control.

In summary, if you and your colleagues reach a conclusion that you do permit Goliath to beat David with the threat of two unacceptably high office buildings as the alternative because of the action of a prior Mayor & Council, **we urge you to require the following of the developers in approving the requested CPD Amendment:**

1. **Require working video surveillance 24/7/365 for the hotel,**
2. **Require hourly surveillance by a security firm between 7:00 P.M. and 6:00 A.M. seven days per week,**
3. **Approve establishment of a small roadway between the two existing medical office buildings and the proposed five-story office building for the office building traffic to egress and mandate that the developer build the road to permit it to be implemented.**

Thank you for your consideration.

Richard & Audrey Silas  
Phone: (301) 340-8413



To: Rockville Mayor and City Council

The following is a submission for the record in the captioned matter, submitted on behalf of the condominium owners of Condominium Residences I and Condominium Residences II of Fallsgrove.

1. UNIT OWNER PREFERENCES: The Proposed Amendment to the Fallsgrove Concept Plan has overwhelming support from the Condominium Residences of Fallsgrove, which includes a total of 119 condominiums. As was demonstrated at the May 2nd meeting, this condominium community is the residential area most significantly impacted by the Proposed Amendment. The following discussion focuses on the degree of support registered by the condominium owners.

A. The Condominium Residences of Fallsgrove consists of four (4) buildings with a combined total of 119 condominium units, as follows: Building I with 49 units; Building II with 48 units; and Buildings III and IV with a combined total of 22 units. There are three condominium associations representing the unit owners in these four buildings--Building I and Building II each have a separate association, and Buildings III and IV have one association. [Note: While the term "building" is used herein for simplification, the term "Condominium Residences" is the formal term used to denote each of the four condominium buildings--thus Condominium Residences I, Condominium Residences II, and so forth. The abbreviation CR is often used in lieu of "Condominium Residences."]

B. Unit owners in Buildings I and II registered their preferences for or against the Proposed Amendment, following a number of association meetings, both formal and informal, as well as countless one-on-one sessions with members of their association board of directors. These meetings and individual sessions included discussions about the Proposed Amendment, focusing on the planned hotel, and the terms of the agreement which the two associations representing Buildings I and II had negotiated with the Applicant/Developer. The pros and cons of the Proposed Amendment were explored, in an effort to ensure the unit owners were well informed of the situation before registering their preferences.

C. Of the 97 units in Buildings I and II, the preferences for and against the Proposed Amendment, namely the planned hotel, were as follows:

FOR	78
AGAINST	8
ABSTAIN	3
DID NOT REPLY	8

Thus, of the 86 unit owners indicating a preference, 91% support the Proposed Amendment, with the planned hotel. [Note: The foregoing breakout was presented during the course of the hearing on May 1st.]

D. The undersigned do not know the precise breakout of the preferences of the 22 unit owners in Buildings III and IV, as this information was not shared with the Planning Commission nor the Mayor and City Council. Perhaps a written submission for the record in this matter will reveal such information. Prior to the Planning Commission Meeting on April 13<sup>th</sup>, we were advised that a total of 12 unit owners in those two buildings opposed the hotel. We do not know the official preferences of the other Unit Owners; however, based on informal conversations we know there are some that favor the hotel.

## 2. THE AGREEMENT WITH THE APPLICANT/DEVELOPER:

A. While the two associations representing Buildings I and II entered into the agreement with the Applicant/Developer, the association representing Buildings III and IV chose not to do so. They had every opportunity to participate in negotiations and, in fact, did so at the outset. They also had every opportunity to become a party to the agreement, and were invited to do so by the associations representing Buildings I and II. They declined. However, the benefits of the agreement flow to the entire condominium community, including Buildings III and IV.

B. The agreement, which is part of the record before the Mayor and City Council, represents several months of discussions with representatives of the Applicant/Developer and the associations representing Buildings I and II. We urge that the land use provisions of the agreement be incorporated into the Falls Grove Concept Plan. Such provisions include those relating to access roads into the hotel and the Shady Grove Road/Wood Hill Road office building and parking structure; the height and general design of these three buildings; the general landscaping design surrounding the three buildings; signage; lighting; the parking lot for the use of condominium residents and guests; and fencing for certain areas of the condominium community and traffic gates.

C. The agreement involved significant negotiations and compromise by all parties. The terms of the agreement were discussed with the unit owners of Buildings I and II, to ensure they supported its terms, before it was executed by authorized representatives of the two associations. While there were one or two comments made at May 2nd hearing characterizing this situation as one akin to "David and Goliath," with the Applicant /Developer being the latter, this bears no resemblance to what transpired. The associations representing Buildings I and

II had the benefit of several unit owner attorneys, as well as a retained zoning lawyer. The end result of this entire process which resulted in a strong show of support for the Proposed Amendment to the Fallsgrove Concept Plan is a win-win situation for all concerned: the condominium community, the Fallsgrove Community at large; the City of Rockville; and the Applicant/Developer.

D. A close working relationship has developed between the Applicant/Developer and those within the condominium community that chose to participate in the foregoing process. This relationship has served to enhance communications between the community and the Applicant-Developer and provides a vehicle for community input into the development and planning processes.

### 3. THE SECURITY ISSUE

During the May 2nd hearing several comments were made about the "security threat" arising from the proposed hotel. Considering the strong show of support for the hotel, one would question the reality of the called "threat." The 24/7 nature of the hotel and the security provisions that are advanced adequately address this issue. To say that a large office building, with an adjacent parking structure would present less of a risk is baseless. In this regard, it should be noted that the condominium unit owners have always been aware that the hotel would have a limited service bar, one intended for hotel patrons.

In conclusion, it is urged that you approve the Proposed Amendment to the Fallsgrove Concept Plan and incorporate into the Concept Plan the land use provisions of the Agreement entered into by the undersigned and the Applicant/Developer, as discussed herein.

Respectfully submitted by:

Nolan Sklute  
President  
Condominium Residences I of Fallsgrove, Inc.

Thiel Sullivan  
President  
Condominium Residences II of Fallsgrove, Inc



Brenda Bean/RKV  
05/09/2005 09:01 AM

To "louise bittker" <lbittker@comcast.net>  
cc mayorcouncil, Art Chambers/RKV@RKV, Deane Mellander/RKV@RKV  
bcc  
Subject Re: Letter to Mayor Giammo

Dear Ms. Bittker:

Thank you for your email regarding the amendment to the Falls Grove Comprehensive Planned development. Your comments, which have been seen by the Mayor and Council, as well as other appropriate staff, will be considered and incorporated into the official record in this matter. The Mayor and Council appreciate the comments they receive from citizens as they deliberate this, and other important matters.

This item will come back before the Mayor and Council several more times before final action which will like occur by the end of June. So that you can track this matter, I would be happy to add your name to our Mayor & Council Agenda listserv group which would allow you to receive the agenda via email three or four days before each meeting. If you are interested in this service, please let me know.

Thanks again for taking the time to write. If you would like to submit anything further before the record closes on May 16th, please feel free to do so.

Brenda F. Bean  
Deputy City Clerk  
City of Rockville  
111 Maryland Avenue  
Rockville, Maryland 20850  
240-314-8281  
email: bbean@rockvillemd.gov  
fax: 240-314-8289

"louise bittker" <lbittker@comcast.net>



"louise bittker"  
<lbittker@comcast.net>  
05/07/2005 04:31 PM

To <mayorcouncil@rockvillemd.gov>  
cc  
Subject Letter to Mayor Giammo

Dear Mayor Giammo;

This letter is to inform you that I am firmly against the construction of TWO one hundred room hotels directly across from my Falls Grove condominium. This is total over and unnecessary development. No one benefits except Lerner Developers and Falls Grove Associates. Rockville and Falls Grove do not need TWO eight story buildings with two hundred rooms. We are better served with one twelve story building, if necessary, even though we don't want that. It would be less bulk staring us in our faces and less every day problems.

We asked Lerner Associates for underground parking to avoid the necessity of their threatened massive parking structures. They totally refused. Their "negotiation" was to provide us with the TWO eight story

towers instead.

Research and Development is not on their agenda. Neither is Day Care. They have neither any plans nor any interest in either.

We do not want to be a gated community. We are not physically set up for it. We can barely get our cars in as it is now. Gates would make it impossible for emergency or service vehicles to easily and rapidly enter our community.

Traffic and parking are serious issues for us. The proposed hotels with their entrances and exits on Blackwell will absolutely destroy our security and create multiple problems for us.

Please vote against construction of these hotels. There are many roads to Mecca. Let's find one that works for all of the citizens of Falls Grove and Rockville - not just for Lerner Developers.

Thank you.

Louise Bittker  
9407 Blackwell Road Unit #401  
Rockville, MD 20850  
301-738-8786



Brenda Bean/RKV  
05/16/2005 09:35 AM

To "grace zhou" <amaingrace@hotmail.com>  
cc mayorcouncil@rockvillemd.gov, Art Chambers/RKV@RKV,  
Deane Mellander/RKV@RKV  
bcc  
Subject Re: From Falls Grove condominiums

Dear Ms. Zhou:

Thank you for your email regarding the amendment to the Falls Grove Comprehensive Planned development. Your comments, which have been seen by the Mayor and Council, as well as other appropriate staff, will be considered and incorporated into the official record in this matter. The Mayor and Council appreciate the comments they receive from citizens as they deliberate this, and other important matters.

The public hearing on this application was held May 2, 2005 at 7:00 pm, and the record closes at 5:00 pm today. This item has several more steps to go through before it comes back for final action, which will likely occur by the end of June.

Thanks again for taking the time to write and for your interest in this project.

Brenda F. Bean  
Deputy City Clerk  
City of Rockville  
111 Maryland Avenue  
Rockville, Maryland 20850  
240-314-8281  
email: bbean@rockvillemd.gov  
fax: 240-314-8289

"grace zhou" <amaingrace@hotmail.com>



"grace zhou"  
<amaingrace@hotmail.com>  
05/14/2005 01:59 AM

To mayorcouncil@rockvillemd.gov  
cc  
Subject From Falls Grove condominiums

Dear Mayor & Council,

I am a resident of Falls Grove condominiums, I oppose that a two hotels or office will be built across the street, because it will cause a lot of problems ( traffic, safety, noise, parking, vista...) in the future, our living environment will be totally changed, so please consider about it, we need a good place to live. Thank you very much!!!

Grace Zhou

9407 Blackwell Rd #205

Routed To:  
☒ Council  
☐ City Clerk  
☒ City Manager

☒ City Attorney  
☐ Council Support Specialist  
☒ Other Art Deane

Exhibit # 11 *Deane*

RECEIVED  
CITY CLERK'S OFFICE

Subject: CRD99-0004A

2005 MAY 18 AM 11:12 Public Hearing Date: 5/2/05

Mayor Giammo and City Council Members

Thank you for the opportunity to comment further on the Falls Grove hotel vs office building on Parcel A at Shady Grove and Blackwell. Your careful assessment of the situation (not rushing to judgment) and your dedication to making Rockville the best place to live and work is commendable.

It needs to be stressed that the seven Planning Commissioners' strong objections to a hotel were summarily dismissed by the four Commissioners in attendance at the April hearing. Granted, the developer (having failed to communicate with Falls Grove residents) in an effort to win public approval, conducted open meetings at which impressive architectural renderings were shown, and then followed with closed meetings with condo board officers who subsequently negotiated the Memorandum of Understanding. How can Lerner's actions nullify the Commissioners' initial objections?

Following the December Planning Commissioners' decision, Mr. Fuccillo, true to Lerner's reputation for vindictive behavior, was overheard to threaten to build an "ugly office building-garage" on the site in question. Many condo residents, intimidated by the threat, agreed to negotiations supporting a hotel in exchange for minor concessions. As one neighbor admitted to me, "We aren't favoring a hotel, but are opposing the office building-garage Lerner promises as the alternative." She was a major participant in the campaign to persuade many to agree with this point of view. Some of the concessions agreed to in the MOU are: (1) use of the pool, exercise facility, and meeting rooms—we already have a pool, exercise facility, and meeting rooms, and a new community center is to be built in the near future at Falls Grove Dr. and Key West. (2) 20 parking spaces for the exclusive use of condo residents—what is to prevent hotel guests and/or personnel from parking there? (3) fencing with traffic gates to access our condo buildings—not everyone wants to live in a gated environment. The list goes on, but based on my premise that a hotel is not appropriate at this site, only the developer benefits.

Another not very compelling argument given by the developer is that Shady Grove Hospital patients' visitors would use the hotel. This hospital is not Johns Hopkins or the Mayo Clinic which cater to an international clientele, but a local community hospital—relatives or friends visiting from out of town would probably stay at patients' homes in the neighborhood.



Our "pursuit of happiness" in our new home will be affected not by the hotel's design (now pretty pictures on paper) but the composition of hotel guests and personnel who have no vested interest in our community. After a stressful day in meetings, the likelihood of dinner and drinking to let off steam by business people-guests could lead to late-night boisterous behavior in the parking lot across from our bedroom. By the time the "hotel manager" arrives (if at all) to bring order and quiet, we will have been awakened and disturbed for the remainder of the night-not the lifestyle we now enjoy.

To reiterate my statements before you on May 2, "The area is saturated with hotels. The hotel you approved in King Farm is far away from residences. And, the hotel proposed at Kentlands was denied by the City of Gaithersburg." (Please see the attached records documenting that application.) DO WE DESERVE ANYTHING LESS? When an applicant proposed to build an extended stay hotel in Gaithersburg, the proposal was rejected because of the potential use by Montgomery County for low income housing. The risk also exists that Lerner, given an "offer they can't refuse" will sell to a buyer wanting to convert the developer's extended stay hotel suites to low income housing despite Mr.Fuccillo's claim that "I'll be here forever." (No assurance is made in the MOU that Lerner will not sell to an entity incompatible with Falls Grove!!!) All companies, no matter how large, divest themselves of properties for the right price. We are aware of the need for low income housing, but is it appropriate in the Falls Grove community?

Again, we urge you to act in the best interests of Falls Grove and the City of Rockville and deny this petition.

Elayne and Stanley Scheiner  
701 Falls Grove Dr. #311  
May 13, 2005

Routed To:  
☒ Council  
☐ City Clerk  
☒ City Manager

☒ City Attorney  
☐ Council Support Specialist  
☒ Other Act  
Deane

Patricia A. Harris  
301 215 6613  
patricia.harris@hklaw.com

Exhibit # 12

Subject: CPD99-0004A

Public Hearing Date: 5/2/05

May 16, 2005

The Honorable Larry Giammo and  
Members of the City Council  
City Hall  
City of Rockville  
111 Maryland Avenue  
Rockville, Maryland 20850

Re: Falls Grove – Concept Plan Amendment

Dear Mayor Giammo and Members of the City Council:

On behalf of Lerner Enterprises ("Applicant"), we wanted to take this opportunity to respond to two issues raised by Councilwoman Hoffman and Mayor Giammo at the close of the May 2<sup>nd</sup> hearing on the proposed amendment to the Falls Grove Concept Plan. These issues pertain to the proposed use of the Woodhill Road parcel and the desire for the Falls Grove community to accommodate a child care center.

#### Woodhill Road Parcel

Councilwoman Hoffman inquired as to whether the Jewish Social Services, with whom Lerner is presently negotiating, was the appropriate tenant for the Woodhill Road building, given the City's desire for more research and development type uses. We are pleased to indicate that this issue was focused on intensely during the original Concept Plan approval process and to that end, the Falls Grove Concept Plan Resolution has a built-in mechanism to ensure that upon build out, a balance is struck between traditional office use and research and development use, as defined therein. More specifically, the Falls Grove Concept Plan Resolution No. 1-00 approving Falls Grove, provides for a total of 950,000 square feet of office use and R&D use within the community, of which a maximum of 425,000 square feet is permitted to be general office space. Therefore, we believe the issue raised by Councilwoman Hoffman has been satisfied by the original Concept Plan approval.

#### Child Care Center

The Applicant has asked, as part of its Concept Plan amendment, that a child care facility be approved as an allowable use within the community. They have done so as a direct result of the fact that without the Mayor and Council's approval, such a use is not permitted. At the present

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2005 MAY 16 PM 3:37



time, the Applicant has not designated a child care agency or facility to operate within Falls Grove. As with other allowable uses, it hopes to avail itself of that opportunity in the future. Mayor Giammo and other members of the Council expressed strong interest in a child care center within the Falls Grove community at some point and your desire is duly noted. The Applicant has taken the first step toward this objective by proposing an amendment to the Concept Plan which would provide for a child care facility as a permitted use.

At this time however, it is difficult for the Applicant to know when that use will materialize. At one time several years ago, the Applicant had considered childcare use within Falls Grove, and in fact initiated the necessary approvals to accommodate such a use. For the record, as of this date, ten accredited child care centers have been established within one mile of Falls Grove. Thus, it appears to the Applicant that the immediate demand for child care in the area has significantly decreased. Perhaps the strongest indication that there is not an immediate need for a child care facility in this area is the property directly across Darnestown Road from Falls Grove, which has been approved for child care use for several years, yet has never gone forward. Nonetheless, the Applicant will continue to work toward a child care facility.

#### Summary

The proposed Concept Plan Amendment has strong support from the community.

The clear benefits of the Concept Plan Amendment are recognized by the vast majority of the Falls Grove residents, and in particular, by those residents living in the nearby condominiums, as was evidenced by their testimony at the public hearing and their supporting correspondence.

We appreciate your consideration of this important issue and respectfully request your approval of the proposed Concept Plan Amendment.

Sincerely yours,

HOLLAND & KNIGHT LLP

A handwritten signature in dark ink, appearing to read "Patricia A. Harris", is written over the typed name.

Patricia A. Harris



City of Rockville

# MEMORANDUM

April 20, 2005

TO: Mayor and Council

FROM: Planning Commission

SUBJECT: Recommendation on Concept Plan Amendment CPD1999-0004B; Falls Grove Associates, applicant. To allow 125,000 to 150,000 square feet of hotel in lieu of equal amount of office space; allow office development on a residual multi-family parcel on Woodhill Road; add child care facility as an approved use in Falls Grove; transfer unused retail from the Village Center to two office parcels adjacent to Blackwell Road. The Planning Commission will be making a recommendation to the Mayor and Council for its review of the proposal on May 2, 2005. This is the second meeting in front of the Planning Commission on this item.

At its meeting on April 13, 2005 the Planning Commission reviewed the above referenced Comprehensive Planned Development Amendment application. The proposal is revise the land use designations for several parcels in the Falls Grove development, as detailed above.

The Planning Staff Report recommended approval of the proposed amendment. The Planning Commission received comments from the staff, the applicant, and members of the public. The applicant has offered to forego the ability to develop 75 of the remaining 119 units currently still available to build per the Concept Plan. They have constructed all of the 745 multi-family units approved by the Concept Plan. Any of the remaining units will have to be either one-family attached or detached units.

A number of citizens spoke both for and against the proposed amendment. Those who spoke in support of the application cited the added amenities the applicant will provide and less traffic impact than the office building. Those who spoke against the proposal expressed concerns about having a hotel in a residential area, security, building mass, and parking impact.

In deliberations, Commissioner Hilton noted that the developer had done a very poor job of involving the community in process. Commissioner Johnson noted that there were strong feelings on both sides of the issue, but that the proposed amendment is the best way to go and it will have a lesser impact overall. Commissioner Ostell originally opposed the hotel, but notes the market forces at work. To say no for open space for a few years is not appropriate.

Page 2  
April 20, 2005

Commissioner Wiener stated that the hotel proposal is better than the original office designation. It is a better use of the property and the lesser of two evils. Commissioner Hilton added that the City works hard for transitions that minimize impacts. The proposed amendment provides a much milder transition than 2 office buildings.

Therefore, on a motion by Commissioner Johnson, seconded by Commissioner Wiener, the Planning Commission voted 4 to 0, with 3 absent, to recommend approval of Concept Plan Amendment CPD1999-0004B.

/dem

cc: Planning Commission




City of Rockville

## MEMORANDUM

April 7, 2005

TO: Planning Commission

FROM: Scott E. Parker, AICP, Acting Chief of Planning 

SUBJECT: Re-evaluation of the Fallsgrove Concept Plan Amendment, CPD1999-0004B; 1. To allow a hotel of 125,000 to 150,000 square feet in lieu of a corresponding amount of office. 2. Permit office development in lieu of multi family development on a residual multi-family residential parcel. 3. Allow a child care facility as an approved use in Fallsgrove. 4. Transfer unused retail space from the Village Center to one of the neighboring commercial parcels.

### BACKGROUND

On February 22, 2000, the Mayor and Council approved CPD99-0004, authorizing development on the former Thomas Farm site, now known as Fallsgrove. The approval authorized a total of 1,530 dwelling units, 150,000 square feet of commercial retail and 950,000 square feet of office/research and development space. Application was a Comprehensive Planned Development similar to King Farm.

There have been a total of 1,411 units approved through the residential series of Detailed Applications for Fallsgrove, which represents the total number of units they are planning to build. Only one 75,000 square foot office building has been constructed, which is located at the 138,000 square-foot Village Center (completed). The Fallsgrove Corporate Center, a 235,000 square foot signature office building, has been approved. Building permits are pending.

On December 1, 2004, this series of amendment requests were presented to the Planning Commission for a recommendation to the Mayor and Council. After considering the presentation and listening to testimony, the Planning Commission voted to recommend denial of the hotel use and the office on Woodhill Road. The Commission, however, recommended approval of the daycare use and the additional accessory retail use, as outlined within this memo.

Since this meeting, the applicant has held seven neighborhood meetings, as well as two "mini design charrettes," so that comments could be elicited from citizens and an accord could be

reached with the adjoining neighbors of this property. The applicant is representing, through the attached Memorandum of Understanding (MOU), that the issues formerly associated with this project have been successfully mitigated to the satisfaction of the majority of residents near this property (attachment 1).

## **PROPOSAL and ANALYSIS**

### **Proposal**

The applicants are proposing a change to the Concept Plan that has three parts, which are as follows:

1. To allow a hotel of 125,000 to 150,000 square feet in lieu of a corresponding amount of office.
2. Permit office development in lieu of multi family development on a residual residential parcel
3. Allow a child care facility as an approved use in Falls Grove.
4. Transfer unused retail space (approximately 20,000 square feet) from the Village Center to one of the neighboring commercial parcels.

### **Analysis**

The first request of this Concept Plan amendment is to allow a hotel use in lieu of 125,000 – 150,000 square feet of office. The hotel would be designated on two potential office sites, both of which are on Shady Grove Road, flanking both sides of the new Blackwell Road as it enters Falls Grove. The hotel would be allowed on only one of the parcels.

As part of this application, the applicant has submitted a traffic statement that indicates there will be a reduction in traffic trips associated with a hotel in lieu of office space. It should be noted that the allowable 950,000 square feet of for Falls Grove was divided between 425,000 square feet of office and 425,000 square feet of R & D uses, as defined within the Concept Plan. Falls Grove has stated that the office space surrendered through this amendment would be deducted equally from the amount of approved office and the amount of approved R & D space.

It has also been presented to staff that a hotel on this site, given market conditions and site layout, would be significantly smaller than an office building on this site. This would ultimately reduce any parking provided on the site significantly. The applicant has stated that the hotel will be surface parked exclusively, while a 125-foot office building on this site could potentially have multiple stories of parking within a structure.

The second part of the request is to allow office construction on a small parcel of land at the intersection of Woodhill Road and West Montgomery Avenue. This parcel is currently designated multi-family by the Concept Plan. The applicant has stated that no more multi-family

can be built on Falls Grove by Resolution, and that this parcel is ideal for a small (three or four story) office building.

The third part of the request is to allow a child care facility as an approved use within Falls Grove. Currently, the Falls Grove Concept Plan does not allow Institutional Uses, of which child care is considered under Section 25-643(5)a.

The fourth part of the request is to allow the approximately 20,000 square feet of retail that was not built with the approved Village Center be allowed to be potentially built on one of the two aforementioned office parcels.

As part of the consideration of this amendment, Falls Grove has offered to abandon and relinquish the ability to develop 75 units of the remaining 119 units currently still available to build per the Concept plan. To date, Falls Grove has constructed 1,411 units of the approved 1,530. It should be noted that no more multi-family development can be built, because their Concept Plan mandated cap of 745 has been attained. Any remaining development would have to take the form of single family attached or detached.

#### **STAFF RECOMMENDATION**

1. **Request to allow 125,000 -150,000-hotel use** – Staff recommends approval of this change. The Concept plan that approved Falls Grove did not specify the amount of office that could be built on any one parcel. The approval was for an overall total square footage, regulated only by height, which in the case of office is 125 feet. This parcel was designated for office, and could be developed with a 125-foot tall building with accompanying parking structure. Conversely, the type of hotel that would be built on this parcel is unlikely to be this tall, given the market demands for hotel uses in the area, and the type of facility contemplated by the applicant. Therefore, parking for a hotel use would be significantly less.

Staff has consistently informed the applicant that a thorough evaluation of any parking associated with an office building would be done to ensure the mitigation of any potential negative effects on adjacent residential properties. This is consistent given the applicant's statement that a hotel for this area would have all surface parking, while an office building would have potentially have a significant structure.

Also, a hotel generates less overall traffic trips than an office. While it is true that trips associated with a hotel are potentially spread out over a wider time frame of the day, staff feels that the overall reduction of trips, and parking, is more significant.

Staff also feels that this use is appropriate for the area and will provide a needed neighborhood and community resource.



Staff originally recommended approval of this part of the amendment, and we continue to do so..

**2. Permit office development in lieu of multi-family development on a residual parcel** – The size and configuration of this parcel, combined with the five-story office buildings and four story residential structures adjacent, makes it an appropriate place for a small office building. The Transco gas right-of-way easement on the property creates a difficult development issue that is more significant with residential development than it is for commercial. An office building on this property would be low scale, conducive to neighborhood-serving medical or service type uses, including, but not limited to, a single tenant user.

Staff recommends approval of this part of the amendment, with a condition that the height of the building be limited to a maximum of four stories, commensurate with the adjacent office buildings and the adjacent four-story multi-family rental component.

**3. Allow a child care facility as an approved use in Falls Grove** – This use was recommended for approval at the December 1, 2004 meeting, and staff supports this decision.

**4. Transfer unused retail space from the Village Center to one of the neighboring commercial parcels** – The supported recommendation was to permit 14,000 square feet of unused retail from the Village Center to be located on other commercially designated properties. Staff supports this, as well.

Staff previously recommended approval of this item, as amended, and we continue to do so.

## **NOTIFICATION:**

Notices were sent to approximately 1,275 residences and businesses. As required by the Zoning Ordinance, certified mail was sent to approximately 106 property owners adjacent to Falls Grove

### **Attachments**

1. Applicant's justification package

# Holland + Knight

Tel 301 654 7800  
Fax 301 654 3978

Holland & Knight LLP  
3 Bethesda Metro Center, Suite 800  
Bethesda, MD 20814  
www.hklaw.com

Patricia A. Harris  
301 215 6613  
patricia.harris@hklaw.com

April 22, 2005

## VIA HAND DELIVERY

The Honorable Larry Giammo and  
Members of the City Council  
City Hall  
City of Rockville  
111 Maryland Avenue  
Rockville, Maryland 20850

Re: Falls Grove – Concept Plan Amendment

Dear Mayor Giammo and Members of the City Council:

On behalf of Falls Grove Associates (the "Applicant"), this letter is submitted in connection with the May 2, 2005 public hearing on the requested Falls Grove Concept Plan Amendment. The Concept Plan Amendment would allow the following:

- a hotel, in lieu of a corresponding amount of approved office/R&D square footage;
- an office, in lieu of the approved multi-family development on the remaining residential parcel on Woodhill Road;
- a child day care facility as an approved use within Falls Grove; and
- the transfer of the balance of unused retail space from the Village Center to the neighboring commercially designated parcels.

The Planning Commission at its April 13, 2005 meeting unanimously recommended the approval of the Concept Plan Amendment. For your information, enclosed please find the materials submitted to the Planning Commission in advance of their meeting. These materials further describe the proposed Amendment and document the significant progress the Applicant made in reaching an agreement with the majority of the condominium residents – the Falls Grove residents located in closest proximity to the affected parcels.

Mayor Larry Giammo  
April 22, 2005  
Page 2

Also enclosed is an executed Agreement between the Applicant and the Condominium Residences I and II. This final Agreement incorporates the terms of the Memorandum of Understanding included in the Planning Commission's materials, and serves as the final understanding between the parties.

The Applicant and Condominium Residences I and II have worked diligently over the past several months in connection with the proposed Amendment and we are very pleased with the results of these efforts as reflected in the Agreement. We look forward to presenting the proposed Concept Plan Amendment and the Agreement to you and detailing the significant community outreach that was involved in this effort.

We thank you in advance for your thoughtful consideration of the requested Concept Plan Amendment.

Sincerely yours,

HOLLAND & KNIGHT LLP



Patricia Harris

Enclosures

cc: Mr. Deane Mellander  
Mr. Nolan Sklute  
Mr. Thiel Sullivan  
Mr. Ricke Ziedman  
Mr. Art Fuccillo  
Mr. Eric Hart

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